



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

January 27, 2023

BY ECF

Honorable John G. Koeltl
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

APPLICATION GRANTED
SO ORDERED


John G. Koeltl, U.S.D.J.

4/27/23

Re: *United States v. James Jeremy Barbera*, 21 Cr. 154 (JGK)

Dear Judge Koeltl:

The Government respectfully submits this letter to advise the Court of the defendant's recent contact with a Nanobeak Biotech shareholder ("Shareholder-1") and to request, on consent of the defense, that the Court modify the defendant's bail conditions to prohibit such contact. On December 9, 2020, the defendant was arrested and presented before the Honorable Sarah Netburn. Judge Netburn ordered the defendant's release on a \$1,000,000 personal recognizance bond and set bail conditions, including that the defendant "refrain from engaging in conduct outlined in the charging document including the solicitation of investors." (Dkt. 5).

As the Court is aware, the defendant was convicted of securities fraud and wire fraud offenses related to his operation of Nanobeak following a jury trial in February 2022. Sentencing is currently pending. The Government was recently contacted by Shareholder-1, who informed the Government that the defendant had contacted Shareholder-1 directly and through an attorney regarding Shareholder-1's Nanobeak shares. Based on its interview of Shareholder-1 and its review of documents provided by Shareholder-1, the Government has learned that the defendant has been attempting sell Shareholder-1 shares of Blu Biotech in exchange for Shareholder-1's Nanobeak shares. In so doing, the defendant has held himself out as the "controlling shareholder" of Blu Biotech, and has provided Shareholder-1 with a video demonstration of Blu Biotech's nanotechnology sensor and other investor materials containing representations about Blu Biotech's nanotechnology research. In addition, the defendant has represented to Shareholder-1 that his "objective is to take Nanobeak out of bankruptcy" and that, "to accomplish that task" the defendant "need[ed] to regain majority control of the company."

Based on the foregoing, it appears the defendant is continuing to contact Nanobeak shareholders and to solicit investments in his successor nanotechnology company, Blu Biotech. In light of the defendant's conviction and the Government's concern that such contact will cause continued harm to Nanobeak and Blu Biotech investors, the Government respectfully requests the Court modify the defendant's bail conditions to prohibit the defendant from (1) contacting any

Nanobeak investor directly or indirectly concerning Nanobeak, Blu Biotech, or any investment of any kind, and (2) engaging in any solicitation of investors, including but not limited to on behalf of Nanobeak and Blu Biotech. The Government has conferred with counsel for the defendant and both defendant and his counsel do not object to this request.

Respectfully submitted,

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